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10/820,309

04/07/2004

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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Attachment to Advisory Action

Applicants' amendment filed on 6/25/2008 has been fully considered; however, the amendment has not been entered given that it introduces the issue of new matter and raises other new issues that would require further consideration and/or search.

With respect to the issue of new matter, claims 1 and 14 have been amended to limit the amount of adhesion promoter to 0.5-1.5 weight percent. It is the examiner's position that this smount fails to satisfy the written description requirement of 35 USC 112, first paragraph since there does not appear to be a written description requirement of the upper endpoint 1.5 weight percent in the application as originally filed, *In re Wright*, 866 F.2d 422, 9 USPQ2d 1649 (Fed. Cir. 1989) and MPEP 2163. While there is support for 1.5 weight percent of Primactor 5990I in Example 7 (Table) on 88 of the specification, there is no support for the amount of 1.5 weight percent for all adhesion promoters. Case law holds that, with respect to changing numerical range limitations, the analysis must take into account which ranges one skilled in the art would consider inherently supported by the discussion in the original disclosure, *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976).

With respect to other new issues, claims 1 and 14 have been amended to narrow the amount range of adhesion promoter and the independent claims have been amended to include an impact modifier. This latter is considered to be a new issue because this limitation in combination with the remaining dependent claims has not been considered before. Furthermore, claim 7 is dependent on a canceled claim and would require new grounds of rejection. Also, claim 15 is not further limiting and claim 20 is new. Each would require new grounds of rejection. Therefore, the amendment would require further consideration and/or search.

Application/Control Number: 10/820,309
Art Unit: 1796

Page 3

6/29/2008
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